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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201			EXAMINER BROWN, RUEBEN M	
			ART UNIT 2424	PAPER NUMBER
			NOTIFICATION DATE 10/29/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary

Application No.

10/686,984

Applicant(s)

ROBERTS ET AL.

Examiner

REUBEN M. BROWN

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 is/are allowed.
- 6) ☒ Claim(s) 1-6 & 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Applicant's main argument against the rejection of record is that Rauch and the present application were both commonly owned, at the time the invention was made, and thus Rauch is not available for a 103(c) rejection. Examiner agrees, and a new Office Action on the merits is enclosed.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 4 & 6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 4 & 6 sets forth "computer readable storage medium." However, the specification as originally filed does not explicitly define [the computer readable storage medium by stating that it '... includes, and is limited to'... 'specific storage device(s)'.]

For instance, Page 18, lines 3-6 discloses that the operating system 160 is loaded from memory 106. Furthermore on Page 19, lines 8-10 it is disclosed that the operating system and

applications can be stored on the hard disk driver 146 or other storage medium (floppy disk, CD ROM, etc. However, these disclosures do not limit the claimed "computer readable storage medium" to any device.

The United States Patent and Trademark Office (USPTO) is obliged to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. *See In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow).

The broadest reasonable interpretation of a claim drawn to a [computer readable storage media] (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, particularly when the specification is absent an explicit definition or is silent. *See* MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal *per se*, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. *See In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2.

Because the full scope of the claim as properly read in light of the disclosure encompasses non-statutory subject matter, the claim as a whole is non-statutory.

The examiner recommends the following language:

1. Modifying “computer readable storage medium”, to be “computer readable non-transitory storage medium”.
2. Modifying “computer readable storage medium”, to be “computer readable storage device”.
3. Adding language, “...wherein the computer readable storage medium is not a signal”.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 & 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legall, (U.S. Pat # 6,005,565), in view of Prochl, (U.S. Pat # 6,532,589), Maze, (U.S. Pat # 6,216,264) and Coden, (U.S. Pat # 5,873,080).

Considering claim 1, the claimed method for operating an EPG displaying TV program information, comprising the steps of;

'displaying a user interface indicating TV programming information comprising a plurality of channels, time periods and programs, configured as a program grid comprising program tiles associated with programs wherein a user can realize when and what channel a program is offered', is met by the disclosure of the program guide shown in Legall, Fig. 3B.

'generating a query in response to activation by the user of a query generating button defined by the user interface, wherein the activation of the query generating button results in the display of a find window of the user interface to assist the user in creating a query, such that the query defines a search of an EPG database', Legall teaches a find window in Fig. 3B, in the form of the Power Search window that assists the user in creating a query. As for the specifics of *'the activation of query generating button results in the display of a find window of the user interface...'*, as pointed out above, Legall shows the find window (Power Search), but does not explicitly show what the user selects in order to get to the Power Search window. Official Notice is taken that at the time the invention was made, providing a selectable icon or button on a user interface, the activation of which brings up another interactive window was old in the art of

graphical user interface at the time the invention was made. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Legall with the feature of a button or icon on the main user interface of Legall, which when activated provides the Power Search interface of Fig. 3B, at least for the desirable advantage of providing the use with a main EPG from which the user can branch off into other desired tasks.

As for the additionally claimed step that the user interface *'implements recording and reminding functionality by providing icons configured to be dragged & dropped by the user into program tiles associated with any program...where the icons can be seen after being dropped, to indicate desire by the user to record the program or be reminded of the program, respectively'*, Legall does not discuss any record or remind feature. Nevertheless Proehl, which is in the same field of endeavor as Legall of an interactive EPG, provides a teaching that allows the user to record or have a reminder for a program, which leaves a record icon 924 on the appropriate program cell 914, see Fig. 9; col. 8, lines 1-50. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Legall with the feature of a record/reminder on a program cell, which serves as a graphical reminder for a user of which program(s) will be recorded, as shown by Proehl, Fig. 9.

As for the specifics of the drag & drop feature for actuating the recording/reminding programming with a drag/drop feature, Proehl teaches that the record function is actuated by selecting the record button 912, and does not discuss the claimed, drag/drop technique. Nevertheless, examiner takes Official Notice that drag/drop feature was well known in the art of

Graphical User Interface technology (GUI). The use of drag/drop was well-known in the art at the time the invention was made, as a manner of direct object manipulation which makes it clear which object that the user intends to actuate. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Legall & Prochl with drag/drop technique, at least for the advantage of allowing the user to specifically manipulate the desired program for recording.

'wherein the user interface is configured to allow the user to save the query, such that the save results in creation of a soft button that allows the user to quickly retrieve & operate the save query', Legall teaches that the user may save their search logs, which reads on the claimed subject matter, see col. 3, lines 5-7; col. 3, lines 50-53. However, Legall doesn't discuss saving in a particular format. Maze though, in the same field of endeavor of searching EPG database(s), provides a teaching of users saving search terms used for searching an EPG system, col. 2, lines 26-64; col. 4, lines 62-67. The combination of Legall & Maze would by convention enable the user to save a search query as an icon or button that can be quickly retrieved and activated. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Legall with the feature of saving search terms as button(s) on the user interface, at least for the desirable improvement of avoiding manual input of the information each time its needed for use, as taught by Maze, see col. 5, lines 15-45.

'receiving search parameters from the find window, the parameters comprising genre; network; rating; and program name'; in the Power Search window of Legall, see Fig. 3B & col.

3, lines 27-48, the user may select the category; rating; web search engine and source (i.e., web and/or EPG), which meets the claimed subject matter, except for the claimed program name.

However, Legall goes on to teach that by typing, the user can enter text such as a program name, see col. 3, lines 61-67.

‘displaying an advanced find window in response to selection of an advanced find window, which allows searching by additional search parameters including keywords, such that the advanced find window defines a plurality of user created searches, such that a user created search may be saved by the user associating a tabbed folder, which may be created and removed’; even though Legall teaches that the user may perform a keyword search, the reference does not discuss the claimed feature of creating tabbed folders, nevertheless Maze, in the same field of endeavor provides a teaching of a plurality of tabbed search folders (i.e., search Gophers, disclosed as Watchdog 1- Watchdog 4, etc.). The discussion in Maze points out that user may create a keyword query of at least programs names, which also meets the claimed subject matter. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Legall with the feature discussed in Maze of search Gophers, which are tabbed search logs, customized by the user, for the desirable benefit of saving the search queries in a more organized manner.

‘querying the EPG using filters, comprising finding program types desired by the user; removing program types not desired by the user’, reads on the discussion in Legall that teaches

after a search has been conducted, the user can perform a further filter of query results, col. 3, lines 45-67 thru col. 4, lines 1-15; Fig. 3C; Fig. 4.

'unifying plural queries configured to combine queries of plural individuals into unified queries, which are combined by performing a Boolean AND or OR function', even though Legall teaches that a search result may be filtered and Maze teaches multiple different searches (which may be individuals) the references do not teach that the individual search results may be 'unified'. However Coden, in the same field of database searching strategies, teaches the well known technique of merging one or more search results from one or more database(s), see col. 8, lines 21-65. In particular, Coden teaches that it would be beneficial to merge search results from different search engines using Boolean operators, "AND" or "OR". It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Legall & Maze, with the feature of combining search results using Boolean operators, at least for the desirable benefit of a more customized and narrow search, as taught by Coden, see col. 2, lines 37-67 thru col. 3, lines 1-42.

Considering claims 4-6, Legall (col. 2, lines 7-32) & Maze (col. 2, lines 7-20; col. 4, lines 31-55) teaches that the system operates on a computerized system with a CPU and thus meets the claimed subject matter, *'a computer readable medium and executable with a processor to perform the steps'*, see col. 3, lines 55-62.

5. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legall, Proehl, Maze & Coden, further in view of Bedard, (U.S. Pat # 5,801,747).

Considering claims 2-3, Legall teaches that the results of the search may be presented to the user as a list of channels in the EPG, but does not discuss ranking of any kind, (fig. 2; Fig. 6; col. 4, lines 48-65). However, Bedard which is in the same field of endeavor teaches, placing the entries 202 in an order based on their viewed time, which would inherently place the higher percentage channels in one place, and the lower percentage channels, in another place, see col. 6. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Legall with the feature of displaying list of TV channels according to their ranking in terms of time viewed, as taught by Bedard, since this would be the channel(s) most likely to be viewed and thus the user would have easier access.

Regarding claim 3, the claimed feature of, '*a threshold of time*', reads on Bedard, col. 3, lines 62-67 thru col. 4, lines 1-15.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Legall, Proehl, Maze & Coden, further in view of Beery, U.S. Pat. # 6,215,531).

Considering claim 8, the claimed EPG displaying TV programming, comprises elements that correspond directly with subject matter mentioned above in the rejection of claims 1 & 7, and is likewise analyzed.

However, the instant claim 8 is amended to include subject matter that a list of programs is presented to the user by iteratively searching using the 10 key keypad. It is pointed out that a 10 key keypad is essentially a regular TV remote control with alphanumeric keys. Even though Legall & Rauch enable the user access TV programming, the references do not specifically discuss the use of the keypad to input the labels for the programs. However, Beery provides a teaching of using the keys on the keypad to enter the label of a program and/or channel which is then narrowed for the user, see col. 5, lines 37-67; col. 6; col. 7, lines 1-20. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the Legall with the feature of accessing the database using the alphanumeric functions of the keypad, at least for the desirable advantage of using the equipment that is already available instead of for instance requiring the use of a Qwerty keyboard to enter alphabets.

Allowable Subject Matter

7. Claim 7 is allowable over prior art of record.

Art Unit: 2424

Any response to this action should be mailed to:

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or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REUBEN M. BROWN whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Reuben M. Brown/
Patent Examiner, Art Unit 2424